IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

Crl.Rev.Pet.No. 4462 of 2007()

CRL.M.P. NO. 1931/2007 IN CC.291/2005 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

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REVN. PETITIONER:

JAYAPRAKASAN PILLAI,
S/O. RAMAN PILLAI,
KOCHUKALA PURAYIDAM,
BALAGRAM, KARUNAPURAM,
IDUKKI.

BY ADV. SRI.V.R.GOPU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF CENTRAL POLICE STATION,
ERNAKULAM THOUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4462 of 2007

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Dated this the 13th day of December, 2007.

ORDER

The petitioner, who is the 2nd accused in C.C. No. 291/2005 on the file of the Chief Judicial Magistrate, Ernakulam which originated on the basis of a charge sheet filed by the Central Police Station, Ernakulam for offences punishable under Sections 406 and 420 r/w Section 34 and 120B IPC, challenges the order dated 30.10.2007 passed by the Magistrate refusing to discharge the revision petitioner.

2. The case of the prosecution is that the 1st accused availed a loan of Rs.6 lakhs on 31.08.2002 from Sree Ram Investments Ltd., for purchasing a vehicle and hypothicated the same with the financier and the 2nd accused (revision petitioner) was the guarantor to the said transaction and subsequently the two accused persons hatched a criminal conspiracy and in furtherance of their common intention they sold the vehicle and misappropriated the sale proceeds without repaying the loan taken from the de facto complainant.

3. The learned counsel appearing for the revision petitioner submitted that charge witness Nos. 2 and 3 have not stated that the revision petitioner had joined hands with the 1st accused for the

clandestine sale of the vehicle and the misappropriation of the sale proceeds and that the aforesaid two charge witnesses only presume that the revision petitioner also would have been a privy to the secret sale of the vehicle. In the light of the statement of CW2 to the effect that both accused Nos. 1 and 2 were jointly cheating the financiers, it is too early to accept the petitioners' contention that there was no material against the revision petitioner so as to frame charge. What is necessary is only a prima facie case or a probable case. Hence, I do not feel constrained to interfere with the order passed by the Chief Judicial Magistrate. There is no reason the why the petitioner should not stand trial and attempt to secure an acquittal.

This revision is accordingly dismissed.

V. RAMKUMAR, JUDGE.

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